

REMARKS

Entry of the preceding amendments and consideration of the comments which follow is respectfully requested by Applicant.

Claims 1, 19, and 52 have been amended. New claim 55 has been added. Support for the recitation added to claim 52 is found in claim 22. Support for new claim 55 is found in claim 51. No new matter has been added.

Claims 1-15, 19-24, 26-27, 32-33, 48, and 51-55 are pending for examination.

Claim allowance

Applicant notes with appreciation the examiner's allowance of claims 2, 3, 12, 13, and 51-53.

Applicant wishes to bring to the examiner's attention, however, the amendment made to claim 52 which was necessitated because "k" is no longer recited in the claim from which claim 52 depends.

Rejection under 35 USC §112, first paragraph

Claims 1, 4-11, 14, and 15 have been rejected under 35 USC §112, second paragraph, as failing to comply with the enablement requirement. The examiner argues that there is no enablement present in the specification for the preparation of compounds of claim 1 wherein "T" is defined as "a hydroxy" or "a leaving group".

Applicant has now amended claim 1 (and claims 4-11, 14, and 15 depending therefrom) by limiting M to -CO-. The examiner's reconsideration of the rejection is respectfully requested.

Rejection under 35 USC §112, second paragraph

Claims 19, 21-23, 26, 32, 33, 48, and 54 have been rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The examiner argues that the limitation of claim 19 "with the proviso that when M is -O-, T is not H" is inconsistent with the definition of "T" in independent claim 51 wherein "T" is defined as "a macromolecular carrier".

Applicant has now amended claim 19 to eliminate the recitation, and the examiner's reconsideration of the rejection is respectfully requested.

Rejection under 35 USC §102(e)/103(a)

Claims 19-24, 26, 27, 32, 33, 48, and 54 have been rejected under 35 USC §102(e)/103(a) as being anticipated by or obvious over Rouhani et al., U.S. 2003/0207469 (hereinafter "Rouhani"). The examiner states that Rouhani describes immunogens which correspond to the structure depicted in the product-by-process claim 19, the antibodies produced from these immunogens, and the conventional use of the antibodies in an immunoassay. The examiner argues that, in accordance with the reasoning set forth in MPEP §2113, the claimed antibodies appear to be substantially identical to or obvious over the antibodies of the reference for the reason that the claimed antibodies are prepared from the same immunogen described by Rouhani. The fact that the immunogen used to prepare the antibody is itself prepared using a certain reagent (the compound of claim 51) does not negate the fact that both Rouhani and claim 19 use the same immunogen to prepare the antibody, the resulting antibodies thus being expected to have identical specificities.

Applicant has amended claim 19 to eliminate the recitation of "maleimidothioether" and "wherein the compound is produced from the compound of claim 51". Thus the antibody of claim 19 is not prepared using the same immunogen taught by Rouhani and thus cannot be argued to be substantially identical to or obvious over the antibodies of the reference. For example, the examiner's attention is drawn to a comparison of cross-reactivity of the antibodies with BDB. The Rouhani reference, in Table 12, reports 30% cross-reactivity at a concentration of 5000 ng/mL, whereas in the antibody of the present invention shows 3.9% cross-reactivity with BDB at a concentration of 5000 ng/mL (see Figure 8).

In light of the present amendment and the above remarks, the examiner's reconsideration of the rejection is respectfully requested.

* * * * *

Applicant submits that his application is now in condition for allowance, and favorable reconsideration of his application in light of the present amendments and above remarks is respectfully requested. Allowance of claims 1-15, 19-24, 26-27, 32-33, 48, and 51-54 at an early date is earnestly solicited.

The examiner is hereby authorized to charge any fees associated with this amendment to Deposit Account No. 02-2958. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

A handwritten signature in cursive script, reading "Marilyn L. Amick". The signature is written in dark ink and is positioned above a horizontal line.

Marilyn L. Amick
Reg. No. 30,444

Customer No. 23690
Phone: 317-521-7561
Fax: 317-521-2883